

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

AMAZIN' RAISINS INTERNATIONAL, INC.  
an Ontario, Canada corporation,

Plaintiff,

V.

Civ. Action No. 04-12679-MLW

OCEAN SPRAY CRANBERRIES, INC.,  
a Delaware corporation,

Defendant.

**DECLARATION OF AMIR LALJI  
IN SUPPORT OF PLAINTIFF’S OPPOSITION TO DEFENDANT’S  
MOTION FOR SUMMARY JUDGMENT OF NONINFRINGEMENT**

I, Amir Lalji, declare and state as follows:

1. I am one of two inventors of the invention disclosed and claimed in United States Patent No. 5,188,861 ("the '861 patent"), entitled "Process For Preparing A Dried Fruit Product." Claim 1 of the '861 patent is directed to a process for preparing dried fruit products having a flavor which does not substantially correspond to the natural flavor of the fruit.

2. I have a bachelors of science degree in chemistry and have worked as a food and cosmetics chemist for about 35 years. For the past 15-16 years I have worked as an independent consultant, focusing primarily in the area of food chemistry, and have assisted with the research and development of many food products.

3. In the late 1980s I was asked by Jack Mazin, the co-inventor of the invention claimed in the '861 patent, to help develop a process for preparing fruit having a flavor that does not substantially correspond to the natural flavor of the fruit.

4. Given the general availability and low cost of raisins, we focused our efforts on a

process for making raisins that taste like fruits other than grapes/raisins, such as orange-flavored and cherry-flavored raisins. Jack believed that there was an unexploited market for such flavored products.

5. The '861 patent has been assigned to Amazin' Raisins International, Inc. ("Amazin Raisins"), and I do not possess an ownership interest in the patent. I am not employed by Amazin' Raisins and have no ongoing or continuing relationship with Amazin' Raisins.

6. The term "dried fruit" recited in claim 1 refers to a fruit or fruit piece that has had a portion of its naturally occurring moisture content removed.

7. The acidulant referred to in step (a) of claim 1, serves to balance the flavor components of the fruit so that the natural flavor cannot be significantly tasted. In other words, the phrase "to substantially remove the flavor of dried fruit," means to balance the flavor components of the fruit so that the natural flavor of the dried fruit cannot be significantly tasted.

8. I have read and reviewed a copy of United States Pat. No. 5,320,861 ("the Mantius patent"), issued to Harold Mantius and assigned to Ocean Spray Cranberries, Inc. for a process titled "Fruit Extraction and Infusion" which I understand discloses the Ocean Spray process that Amazin' Raisins has accused of infringement.

9. Upon reading the Mantius patent, I learned that Ocean Spray subjects frozen, sliced cranberries to a countercurrent extraction process to form "decharacterized fruit pieces." These decharacterized fruit pieces are subsequently treated with an infusion syrup to recharacterize the fruit.

10. Ocean Spray removes the juice from the cranberries in order to manufacture cranberry juice. Thus, the decharacterized fruit pieces used by Ocean Spray have had a portion of their naturally occurring moisture content removed. Specifically, Ocean Spray removes the

liquid that is naturally present in cranberries during the countercurrent extraction process.

11. Table II of the Mantius patent reads as follows:

<b>PROCESS STAGE (FIG. 3)</b>	<b>MATERIAL</b>	<b>AMOUNT</b>	<b>CONCENTRATION (WATER PHASE)</b>
40/42	FROZEN SORTED CRANBERRIES	100.0 LBS	8 brix
44	FLUME RECYCLE (WATER)	900.0 LBS	
48	CRANBERRY SEEDS	0.3 LBS	
51	SLICED CRANBERRIES	99.7 LBS	
53	WATER	250.0 LBS	
54/56	JUICE EXTRACT/WATER	257.7 LBS	3 brix

  

<b>PROCESS STAGE (FIG. 3)</b>	<b>MATERIAL</b>	<b>AMOUNT</b>	<b>CONCENTRATION (WATER PHASE)</b>
60	ENZYME	0.1 LBS	
65	CRANBERRY JUICE/WATER	43.0 LBS	18 brix
66	TRASH (SEEDS/FINES)	0.1 LBS	
68	WATER	214.7 LBS	
71	EXTRACTED DECHARACTERIZED SLICES	92.0 LBS	0.3 brix
74	SPENT SYRUP	256.0 LBS	55 brix
80	TRASH (SEEDS/FINES)	0.1 LBS	
84	WATER	37.9 LBS	
88	INFUSION SUGAR	61.0 LBS	
90	INFUSION SYRUP	284.0 LBS	72 brix
92/94	INFUSED FRUIT PIECES	120.0 LBS	55 brix
96	EXCESS SYRUP	5.0 LBS	55 brix
100	WATER	41.6 LBS	
104	OIL	0.1 LBS	
108	FINES	17.5 LBS	
110	DRIED INFUSED FRUIT SLICES	56.0 LBS	88 brix

According to this table, the process began with 100.0 pounds of frozen sorted cranberries. After slicing and countercurrent extraction, only 92.0 pounds of decharacterized slices remained.

According to the table, 0.3 pounds were lost as seeds and 0.1 pounds were lost as trash (seeds/fines). In addition, while only 250.0 pounds of water was added to the extractor, 257.7 pounds of "juice extract/water" was produced. This data shows that 7.7 pounds of cranberry juice was removed from the frozen cranberries. This would mean that the naturally present moisture content of the cranberries was reduced during the countercurrent extraction process. Based upon this data it appears that Ocean Spray begins the infusion process with a "dried fruit" as that term is used in claim one.

12. The Mantius patent indicates that not all of soluble solids of the cranberry are

removed during the countercurrent extraction process. This means the decharacterized cranberries maintain some cranberry flavor.

13. In his declaration, Mr. Mantius stated that the infusion syrup used by Ocean Spray contains citric acid. Citric acid is one of the acidulants mentioned in claim 1. Thus, Ocean Spray treats the decharacterized fruit pieces with an acidulant. Ocean Spray's use of citric acid in the infusion syrup would balance the flavors of the decharacterized fruit pieces such that the fruit pieces would no longer possess a significant cranberry flavor following infusion.

I declare under the penalty of perjury that the foregoing is true and accurate.

Executed on this 10th day of February 2006.

s/Amir Lalji  
Amir Lalji